

## REMARKS

The Office action mailed 24 April 2006, has been received and its contents carefully noted. Claims 20-22 and 26 were objected to and claims 10, 11, 16-19 and 31 were rejected. By this amendment, claims 10, 17 and 18 have been amended. Support may be found in the specification and the claims as originally filed. No statutory new matter has been added. Therefore, reconsideration and entry of the claims as amended are respectfully requested.

### Rejection under 35 U.S.C. 112, second paragraph

The Examiner rejected claim 17 under 35 U.S.C. 112, second paragraph, as indefinite. Specifically, the Examiner deemed that "host" was unclear and suggested it be changed to "host cell".

Applicants respectfully assert that the claims, as amended, are clear and definite and the rejection under 35 U.S.C. 112, second paragraph, should properly be withdrawn.

### Rejection under 35 U.S.C. 102(a)

The Examiner rejected claims 10, 11, 25 and 31 under 35 U.S.C. 102(a) as being anticipated by Wolf et al., Accession #P53509.

Applicants respectfully submit that the claims have been amended such that the polypeptide *consists of* SEQ ID NO:9. Since #P53509 is longer than SEQ ID NO:9, Wolf et al. does not anticipate claim 10 and the claims that depend thereon.

Therefore, the rejection under 35 U.S.C. 102(a) should properly be withdrawn.

### Rejection under 35 U.S.C. 102(b)

The Examiner rejected claims 10, 11, 16, 17, 18, 19, 25 and 31 under 35 U.S.C. 102(b) as being anticipated by Wolf et al. (1989). Specifically, the Examiner indicates that although Wolf et al. does not disclose the sequence of a band of protein in a gel which was excised out and used to generate antisera, Wolf et al. inherently anticipates the claimed invention.

Applicants respectfully submit that Wolf et al. is a nonenabling reference and does not teach each and every element of the claimed invention. Specifically, Wolf et al. does not enable the practice of the invention with the claimed polypeptide – one consisting of SEQ ID NO:9. A

polypeptide that is similar to SEQ ID NO:9, such as #P53509 would be expected to result in an eluted band in a gel in a position substantially similar to SEQ ID NO:9. The protein of the eluted band could be easily mistaken for one or the other without a suitable control and thus, it is unclear that the protein of the eluted band is SEQ ID NO:9 rather than #P53509. Nowhere does Wolf et al. disclose the sequence of the eluted band used to generate antisera. Thus, Wolf et al. does not enable claims limited to SEQ ID NO:9. Therefore, Wolf et al. does not anticipate the claimed invention.

Further, Wolf et al. does not teach each and every limitation of the claimed invention. Specifically, nowhere does Wolf et al. teach a purified polypeptide *consisting of* SEQ ID NO:9 or encoded by SEQ ID NO:4 (claims 10, 11, 25, 26 and 31), a method of inducing an antigenic response by administering the polypeptide consisting of SEQ ID NO:9 (claim 16), administering the polypeptide in the form of a host cell (claims 17-19), administering the polypeptide in the form of a food or drink (claims 20-21), and orally administering the polypeptide (claim 22). Therefore, Wolf et al. does not anticipate the claimed invention and the rejection under 35 U.S.C. 102(b) should properly be withdrawn.

#### **Request for Interview**

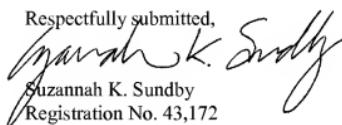
Either a telephonic or an in-person interview is respectfully requested should there be any remaining issues.

### CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Therefore, it is respectfully requested that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. 1.136(a), and any fees required therefor are hereby authorized to be charged to **Deposit Account No. 210-380**, Attorney Docket No. **034047.033CON4 (WRAIR 95-01D)**.

Respectfully submitted,



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